IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 25125 of 2007

DATED: 11.10.2007

Between:

M.Vinodh Kumar petitioner

And

The Second Appellate Authority
U/sec 48 (3) of A.P. Shops & Estt Act-cum-
The Dy Commissioner of Labour (TC), Hyd
Anjaiah Shramik Bhavan,
RTC X road, Hyderabad & another Respondents

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Oral order:

This writ petition is filed questioning the order dated 27.1.2005 in I.A No. 03 of 2004 in S.A. No. 16 of 2004 not granting permission to the petitioner to withdraw the backwages, as illegal and arbitrary.

Though several contentions were raised in the writ petition, today when the matter is taken up, counsel appearing for both parties, submitted that the first respondent –Deputy Commissioner of Labour, has passed orders in S.A No. 16 of 2004 dated 17.2.2007 remanding the matter to the first Appellate Authority and in view of the same, no further orders are required to be passed in the present writ petition. A copy of orders dated 17.2.2007 in S.A No. 16 of 2004 is produced before this Court.

Heard the learned counsel for petitioner, learned counsel for respondent and perused the material available on record including the orders dated 17.2.2007 passed by the first respondent.

The first Respondent- Deputy Commissioner of Labour, by order dated 17.2.2007 set aside the order dated 30.1.2004 and remanded the matter to the First Appellate Authority to decide the issue of jurisdiction. The operative portion of the order dated 17.2.2007 reads as under;

> "In the result, the orders dated 30.1.2004 of the first Appellate Authority /Asst.Commissioner of Labour-III, Hyderabad are hereby set aside as the said orders are passed without deciding the jurisdiction of the Authority. The first Appellate Authority is also directed to reopen

the case No.SE/45/2001 to decide the issue of jurisdiction with regard to the status of the employee as defined under the Act before passing any order on merits, while giving full opportunity to adduce evidence. Therefore, the second appeal is allowed."

Since the order dated 30.1.2004 in S.E No. 45 of 2001 itself is set aside and the matter is remanded to the First Appellate Authority, no further orders are required to be passed in the present writ petition. However, since the matter relates to 2001, the First Appellate Authority, Assistant Commissioner of Labour –III, Hyderabad is directed to expedite the hearing and pass appropriate orders in accordance with law.

Accordingly, the writ petition is closed. No costs.

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N.V.RAMANA,J

DATE: 11.10.2007

NOTE : Registry is directed to dispatch copy of
this order to the Assistant Commissioner of
Labour, III, , T Anjaiah Karmika Samshema Bhavan
RTC X Roads, Hyderabad- 20.

B/o
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